

AGREEMENT FOR SERVICES

This Agreement for Services (this "Agreement") is made effective as of August 14, 2020 (the "Effective Date"), by and between the Department of Community Investment (the "Department") of the City of South Bend, Indiana (together with the Department, the "City"), an Indiana municipal corporation, and Kennedy Expressline a construction contractor/shipping provider (the "Provider") (each a "Party" and collectively the "Parties").

For and in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

1. Services. The Provider will provide to the City the services (the "Services") set forth in Exhibit A, which is attached hereto and incorporated herein by reference (the "Scope of Work"). In the event of any conflict between the terms of this Agreement and the terms of the Scope of Work, the terms of this Agreement will prevail. The Provider will execute its obligations under this Agreement in accordance with the prevailing professional standard of care for projects of similar design and complexity.

2. Compensation. In exchange for the Provider's performance of the Services, and subject to the terms and conditions of this Agreement, the City will pay the Provider a total sum not to exceed fifteen thousand, two-hundred dollars (\$15,200) (the "Contract Amount"). The City will pay the Contract Amount upon satisfactory completion of the Services and within thirty (30) days of its receipt of an undisputed invoice submitted by the Provider. The Provider will not incur or seek reimbursement for any expenses in excess of the Contract Amount and shall not commence any additional work or change the scope of the Services provided unless authorized in writing by the City. No claim for additional compensation shall be made by Provider in the absence of prior written approval of the Parties

3. Term; Termination. Unless earlier terminated in accordance with its terms, this Agreement will commence on the Effective Date and end on August 31, 2020. Notwithstanding the foregoing, effective immediately upon delivery of a written termination notice to the Provider, the City may terminate this Agreement, in whole or in part, for any reason, if the City determines that such termination is in the best interest of the City. In addition, in accordance with applicable laws, payments are subject to annual appropriation. If the City Controller makes a written determination that funds are not appropriated or are otherwise unavailable to support the continuation of this Agreement, it shall be cancelled. A determination by the City Controller that funds are not appropriated or are otherwise unavailable to support the continuation of performance shall be final and conclusive. The City will not be required to pay any Contract Installment or be otherwise liable for any cost associated with the Provider's performance of any Services after the effective date of termination.

4. Remedies for Breach of Contract. The Provider's failure to complete the Services in accordance with this Agreement will be considered a material breach. In the event of any breach of this Agreement by the Provider, the City may suspend payment to

the Provider and may pursue any and all remedies available at law or in equity.

5. Point of Contact. The City employee identified in Section 11 below will serve as the City's principal point of contact for purposes of this Agreement.

6. Relationship. The Provider shall at all times be an independent contractor for the performance of the Services rather than an employee of the City, and no act or omission to act by the Provider shall in any way bind or obligate the City. No employee of the Provider will be considered or deemed to be an employee of the City. This Agreement is strictly for the benefit of the Parties and not for any third party or person. This Agreement was negotiated by the Parties at arm's length and each of the parties hereto has reviewed the Agreement after the opportunity to consult with independent legal counsel. Neither party shall maintain that the language in the Agreement shall be construed against any signatory hereto. The City and the Provider hereby renounce the existence of any form of agency relationship, joint venture, or partnership between the Provider and the City and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the City and the Provider.

7. Confidentiality. The Provider acknowledges that information which the City regards as confidential or proprietary in nature (the "Information"), may come to the knowledge of the Provider during the Provider's performance of the Services. The Provider shall treat the Information as strictly confidential and agrees that the Provider will not, at any time or in any manner, either directly or indirectly, (i) use, or allowed to be used, any Information for the Provider's own benefit or the benefit of any director, official, employee, or agent or any third party, or (ii) divulge, disclose, or communicate in any manner any Information to any third party without the written consent of the City. The Provider shall be responsible for maintaining the confidentiality of any Information in his possession, including taking appropriate measures to secure said Information against such uses and dissemination and to inform any person to which he allows to access such Information of its confidentiality. Notwithstanding anything to the contrary contained in this Agreement, the Parties will adhere to their respective obligations, if any, under any law or court order, and nothing herein will be construed to relieve either Party of such obligations. The confidentiality provisions of this Agreement remain in full force and effect after, and survive the termination of, the Term of this Agreement.

8. Indemnification of City. The Provider hereby agrees to indemnify, defend, and hold harmless the City and its officials, employees, and agents, from any and all claims of any nature which arise from the performance by the Provider under this Agreement and from all costs and attorney fees in connection therewith, except for claims arising out of the negligence or intentional acts or omissions of the City or its officials, directors, employees, or agents. The obligations of the Provider under this section shall survive the termination of this Agreement.

9. Work Product; Ownership. The Provider will submit its work product to the City in accordance with the terms of the Scope of Work. Any and all work product submitted by the Provider to the City as part of the Provider's performance of the Services

shall become the exclusive property of the City. The City will have the right to use and reproduce copies of the Provider's work product as the City determines in its sole discretion without compensation to the Provider except the compensation expressly provided for in this Agreement.

10. Assignment. The Provider shall not assign or subcontract the whole or any part of this Agreement or its obligations hereunder without the prior written consent of the City.

11. Notices. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered when deposited in the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to the City or the Provider, as the case may be, at the address set forth below.

Provider:
Kennedy Expressline
4324 Ashard Drive
South Bend, IN 46628
Attn: Marcus Northern

City:
City of South Bend, Indiana
227 W. Jefferson Boulevard, Suite 1400S
South Bend, IN 46601
Attn: Martin Mechtenberg,
Empowerment Specialist

12. Authority. Each undersigned person executing and delivering this Agreement on behalf of a Party represents and warrants that he or she is a duly authorized representative of such Party and that he or she has been fully empowered to execute and deliver this Agreement on behalf of such Party.

13. Equal Opportunity; Non-Discrimination; Compliance. The Provider shall comply with all applicable laws and regulations in its hiring and employment practices and policies for any activity covered by this Agreement. The Provider shall comply with all federal, state, and municipal laws, regulations, and standards applicable to its activities pursuant to this Agreement including, but not limited to, the requirements imposed by Ind. Code 22-9-1-10 (non-discrimination), the provisions of Ind. Code 5-22-16.5 (disqualification for dealings with the government of Iran), and the provisions of Ind. Code 22-5-1.7 (requiring E-Verify for new employees and prohibiting employment of unauthorized aliens). Each of the foregoing provisions is incorporated herein as if set forth in full, and the Provider certifies that she is in compliance with each such provision and shall remain in compliance through the term of this Agreement.

14. Drug-Free Workplace. The Provider hereby agrees to make a good faith effort to provide and maintain a drug-free workplace. The Provider will give written notice to the City within ten (10) days after receiving actual notice that the Provider or an employee of the Provider within the State of Indiana has been convicted of a criminal drug violation occurring in the workplace.

15. Non-Collusion and Acceptance. The Provider attests, subject to the penalties for perjury, that it is the Provider, that it has not, directly or indirectly, to the best of its knowledge after due inquiry, entered into or offered to enter into any combination,

collusion or agreement to receive or pay, and that it has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

16. No Waiver. No failure or delay on the part of either Party in exercising any right under this Agreement will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will have effect unless given in a written document signed by the Party waiving such right. No waiver of any right will be deemed a waiver of any other right hereunder.

17. Severability. In the event any portion of this Agreement shall be held illegal, void, or ineffective, the remaining portions hereof shall remain in full force and effect. If any of the terms or conditions of this Agreement are in conflict with any applicable statute or rule of law, then such terms and conditions shall be deemed inoperative to the extent that they may conflict therewith and shall be deemed to be modified to conform to such law.

18. Entire Agreement; Amendment; Applicable Law. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understandings of any and every nature between them. This Agreement may be amended only by separate writing, signed by authorized representatives of both the Provider and the City. This Agreement will be construed and interpreted according to the laws of the State of Indiana.

Signature Page Follows

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement for Services to be effective as of the Effective Date stated above.

CITY:

CITY OF SOUTH BEND, INDIANA
DEPARTMENT OF COMMUNITY INVESTMENT

By: Katy Rajski

Date: 8-27-20

Printed: Katy Rajski

Title: Sr. Purchasing Agent

PROVIDER:

KENNEDY EXPRESSLINE

By: Marcus Northrup

Date: 8-14-2020

Printed: Marcus Northrup

Title: Owner / Operator

EXHIBIT A

Scope of Work

TRANSPORT

- Transport 53' trailer to zoo
- 8 to 14 day trailer rental
- Transport 53' trailer to Central Services
- Rental of 53' trailer for 10 months

GREENHOUSE DECONSTRUCTION

- 30'x60' greenhouse deconstruction
- Salvage of full metal structure, including all hardware and doors
- Salvage HVAC, irrigation and electrical components
- All components to be clearly labeled and packaged for future reconstruction.
- Remove and dispose all plastic greenhouse panels.

* brick flooring, swamp coolers and concrete block sidewalls to remain.